

Status of Bay/Delta Conservation Plan ("BDCP") DEIS Review
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WHAT IS THE BDCP AND WHO IS INVOLVED?

- The BDCP is a proposed Habitat Conservation Plan ("HCP") to support a 50-year Incidental Take Permit under the federal Endangered Species Act, and a Natural Communities Conservation Plan under the CA Endangered Species Act.
- A joint DEIS/DEIR regarding the BDCP, issued under NEPA/CEQA, is currently out for public review; comments are due April 14th.
- The lead federal agencies are FWS, NMFS, and BOR; the State lead is California Department of Water Resources ("DWR"). The HCP and the EIS/EIR are funded by the water exporters (the "applicants") and are being prepared by consultants directed primarily by DWR.
- The tunnels, along with various undefined restoration projects, are proposed as "conservation measures" to meet the dual goals of restoring the Bay/Delta ecosystem and ensuring a more reliable water supply for the water user communities.

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tion in an expanded suite of reasonable alternatives.

ISSUES RAISED BY THE LEAD FEDERAL AGENCIES ON THE ADMINISTRATIVE DEIS IN JULY 2013

- In their July 2013 comments to DWR and the consultants on the Administrative DEIS, the federal lead agencies raised a number of significant issues about the document:

NMFS: “The lack of analysis of upstream operations and related effects may render this document insufficient to provide NEPA compliance for the full suite of actions necessary to integrate the BDCP into CVP operations”. . . “Though the Federal agencies have had significant input into the EA (effects analysis), it is still a consultant drafted document guided by the permit applicants with several unresolved issues related to the analytical methods and resultant conclusions regarding project effects on covered species. The Federal agencies have responsibility for the content of the EIS as we (NMFS) are a co-lead and therefore must fully support the methodology and conclusions reached in the document. The EA is not a Federal agency document, it is still under review, and we have not accepted all of its methodology and conclusions.”

FWS: “The FWS believes that the draft BDCP ADEIS is insufficient at this time as a disclosure document and is not yet adequate in providing all information and analyses necessary for a decision-maker to make an informed choice between alternatives”. . . “The ADEIS is missing a clear, full and complete project description of the proposed action and detailed information needed to do a complete project specific level impact analysis for CM1. Additionally, the ADEIS does not provide an equal level of analysis of all alternatives”.

BOR: “The identification of adverse and beneficial impacts is very subjective and appears to be based on a misreading of NEPA regulations”. . . “Analysis of upstream affects may not be sufficient to serve as NEPA compliance for Reclamation to accept BiOp depending on the outcome of pending 9th circuit appeal filed by NRDC specific to NEPA analysis of RPA prior to implementation by Action Agency”.

- At the time the DEIS was published, the lead federal agencies acknowledged to EPA Region 9 that these issues were still unresolved and, for this reason, they did not identify a preferred alternative.

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